

-- REMARKS --

Claims 1-31 of the above referenced application are pending. Claims 11-14, 16, and 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sullivan et al., U.S. Patent No. 4,865,200 ("Sullivan"). Claims 1-10 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sullivan, in view of Wood, U.S. Patent No. 3,221,872 ("Wood"), Cadillac et al., U.S. Patent No. 2,917,165 ("Cadillac") and Official Notice. Claims 15, 17, 18, 20-23, and 25-31 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sullivan. Reconsideration of this rejection of the claims is requested.

Claims 11-14, 16 and 19 were rejected under 35 U.S.C. 102(b) as being anticipated by Sullivan. Claim 11 has been amended. Claims 12 and 19 are cancelled. Reconsideration is requested.

The Examiner opines that Sullivan "teaches a packaging component comprising a base member 10 with a central part, opposed sides, with portions foldable out to form arms, a member 18 engagable with the arms to hold them in a folded condition, whereby an article to be packaged is stabilized."

Sullivan discloses, "Corner side walls 19 extend from the surface wall 12 of support member 10." (Col. 2, Lines 53, 54) "The side walls, by having a width greater than the width of the article when fixed to the surface face, provides for a space or gap between the inside wall of the carton opposite the article and the article itself." (Col 2, Lines 57-61)

Sullivan's above-described "gap" results from folding the corner side walls 19 in the *same* direction in which the article is mounted. Also, the corner side walls 19 are of a width "...*greater* than the thickness of the article 14 when fixed to the surface face 12 with the flaps 16 folded over and secured against the article." (Col 2, Lines 55-57) Hence, same direction *and* greater thickness are simultaneous limitations of Sullivan's invention, and, as shown clearly in Sullivan's Figures 1, 2, 3 and 4, both limitations are required in order to provide Sullivan's above described protective gap. Thus, Sullivan teaches that the desired protective gap requires these same corner side walls to be folded in the same direction as the article.

A significant disadvantage exists with the packaging scheme of Sullivan, which should be noted, in order to appreciate the novel aspects and resultant technical contribution of the present

invention. Namely, the packaging scheme of Sullivan causes the packaged object to be held closely adjacent a side of the packaging container. In this manner, the packaged object may be easily damaged by a minimal penetration through the container. The present invention successfully addresses this problem in a manner not taught or suggested by Sullivan.

Amended independent Claim 11 of the present invention is directed to a packaging component for an article comprising: a base member having...a first pair of opposed sides...foldable out of the plane of said base member and forming arms to said base member...a second pair of opposed sides on said base member...being foldable out of the plane of said base member, said second pair being foldable *in a direction opposite* of said first pair, said second pair portion forming legs to said base member when so folded.

The corner side walls of Sullivan are not the same as, and thus, do not anticipate the legs of independent Claim 11 of the present invention. Instead of folding away from the article to be packaged, the corner side walls of Sullivan are folded toward the article to be packaged. There is not teaching or suggestion in Sullivan to do otherwise. Furthermore, Sullivan teaches away from doing so by placing back-to-back two separately packaged items in a single container as shown in FIG. 2.

Because Sullivan does not contain the opposite folding legs of Claim 11 of the present invention Sullivan cannot anticipate independent Claim 11 of the present invention or dependent Claims 13, 14 and 16. Therefore Claims 11, 13, 14 and 16 are allowable over Sullivan.

Claims 1-10 and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan, in view of Wood, Cadillac, and Official Notice. Claims 1, 8, 9 and 24 are cancelled. Claim 2 has been amended. Reconsideration is requested.

As a preliminary matter, it is noted that this rejection is being made by combining four citations. The use of four citations suggests that the Examiner is merely picking and choosing references to reconstruct limitations of the claimed invention in hindsight. The Applicant submits that this fact alone argues against combining Sullivan, Wood, Cadillac and "Official Notice".

Claim 2 of the present invention is directed to a packaging system for a vehicle radiator, which includes a non-fragile portion. The system includes a tray member with foldable arms to

embrace the radiator. A strap is engageable around the tray to hold the arms upon the radiator. The tray includes ends foldable away from the radiator side to form legs, which form a platform upon which the radiator is supported. The system includes a container for receiving the folded tray and radiator. The system includes a stand-off element mounted to the non-fragile portion of the vehicle radiator. When the container receives the tray including the radiator, the combination of the legs, stand-off element and tray member serve to space the radiator from the container.

Vehicular radiators have a plurality of fins made from thin material to provide a high rate of thermal exchange. The fins of a radiator are very fragile and can be damaged by a slight touch. Some non-fragile areas of a radiator include the mounting points, the inlet and outlet port (usually hose connections) and the filler neck. The use of one such radiator non-fragile surface is contained in the embodiment of the present invention illustrated in FIGS. 5 and 6 of the present application and disclosed between Page 9, Line 17 and Page 10, Line 13, thereof. Here, the stand-off element employed is in the form of a cylindrical tube, mounted on or within the non-fragile hose connection.

The cited references do not, in combination teach or suggest all of the limitations of the present Claim 2, as amended.

None of the cited references teach the legs of the present invention. As demonstrated above, Sullivan lacks the legs of the present invention. The Examiner opines that it would have been obvious to modify Sullivan's device to provide legs as recited in the present claim. Applicant disagrees. Since the present invention is designed to space a radiator from a container, modifying the device of Sullivan would merely present a different side of the radiator to be positioned directly against the inside of a container. Thus, modifying Sullivan would defeat the purpose and advantages of the present invention. For at least this reason, there is no suggestion or motivation to modify Sullivan.

Furthermore, Wood and Cadillac do not provide this deficiency of Sullivan.

Wood teaches "...four spaced corner posts which have cut-out sectors forming recesses or packets which receive and snugly fit over the corners of a commodity to support the same in spaced relationship with respect to the bottom, top and side walls of an outer box or container in which the posts are placed." (Wood, Col 2, Lines 35-42) Since Wood teaches corner posts with recesses for receiving corners of a commodity, it is clear that the corner posts of Wood are not

the same as the legs formed from a tray member of the present invention.

Cadillac teaches a “vehicle cab box” including a platform 10 with build-up supports or blocks 11 and 12 mounted thereon. Col. 2, lines 48-66. The build-up supports or blocks 11 and 12 are secure mounts on the platform 10 to prevent the weight of the cab and anything packed therein from damaging the lower portion of the cab. The build-up supports or blocks 11 and 12 are resilient and are of sufficient strength to support a cab subassembly of a vehicle.

Since the blocks of Cadillac are not legs formed on a tray member, Cadillac does not supply this deficiency of Sullivan.

Present Claim 2 also includes a stand-off element mounted to the non-fragile portion of the vehicle radiator. Applicants further submit that the recitation of the stand-off element mounted to the non-fragile portion of the vehicle radiator is a meaningful limitation of the claim and must be considered as such. Sullivan does not teach or suggest the use of a stand-off element connected to a non-fragile portion. Applicant concedes that stand-off elements and the like are well-known in the art. However, the combination of a stand-off element on a non-fragile portion of a radiator and a tray including legs is not taught or suggested by the cited prior art. Furthermore, the combination of the legs, tray and stand-off serve to stabilize the radiator and space the radiator from the container and this is not taught or suggested by the prior art.

Wood accomplishes the suspension of a commodity with four corner posts that do not require any other packaging members. This teaches away from a combination with Sullivan.

Cadillac merely shows the use of blocks to support the underneath of a vehicle cab. Use of the blocks in Cadillac would damage a radiator, as the blocks would contact the fragile fin-surface of a radiator. Accordingly, Cadillac teaches away from using blocks with a radiator. Furthermore, the tray of Sullivan would not be useable to support a vehicle body as shown in Cadillac. This fact further teaches away from the combination of Cadillac with Sullivan.

Sullivan provides more reasons not to use spacers or the like: “Attempts have previously been made to immobilize and cushion an article being shipped in order to prevent damage.” (Sullivan, Col 1, Lines 21-23) Sullivan further describes the *types* of spacers used in prior art “...immobilized and cushioned by use of corrugated paperboard and filler material...” “...foam plastic to immobilize and cushion...” “...rigid foam cushion corner frames...”. (Col 1, Lines 26-36) Sullivan concludes by describing a major shortcoming of the “prior package containers”,

“... the inadequate protection they provide against damage, particularly vibrational damage, caused by shipment. There is a need in the art for a shipping package.... without the damage normally associated with the present containers”. (Col 1, Lines 36-44)

Clearly, then, the use of a stand-off as recited in claim 2, positioned on a non-fragile portion of the radiator is not taught or suggested in the prior art.

None of Wood, Cadillac or Sullivan, taken singly or taken together have disclosed the use of a stand-off element, mounted on a non-fragile surface and combined the stand-off element with tray legs folded away from the article being packaged. In fact, absent the recited non-fragile portion, it is unlikely that Sullivan would, or could safely, employ such a stand-off. For example, if the package of Sullivan were to use a stand-off with a pane of glass it is unlikely that the shipment would arrive intact. It is not the well-known existence of spacers that suggests the present protective packaging, but the novel and effective use of a particular type of spacer, such as a stand-off element mounted on a non-fragile portion as claimed. Wood, Sullivan and Official Notice, taken together, lacks claimed elements of the present claim 2 and furthermore, would not suggest to a person with ordinary skill in the art to provide the protective combination disclosed in Claim 2 of the present invention. Thus, Claim 2 and Claims 3-7 and 10, dependent therefrom, should be allowed.

Claims 15, 17, 18, 20-23 and 25-31 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al, in view of Official Notice. Claims 18, 24, 27, 28 and 31 have been cancelled. Claims 15, 17, 20-22 depend from Claim 11. Independent Claim 23 is amended herein. Reconsideration is requested.

Amended Claim 23 of the present invention recites a packaging system including a vehicular radiator including a non-fragile portion. A base member is provided with a central part for receiving the radiator. The base member includes a pair of arms. The base member includes a pair of legs foldable in a direction opposite the arms. A container is provided to hold the base member and radiator. At least one stand-off element is mountable between an inner-wall of the container and the non-fragile portion of the radiator when placed upon a central part of the base member with the arms folded. The base member and standoff operate to stabilize the radiator and space the radiator from the container inner-wall.

None of the cited references teach the packaging of a vehicular radiator.

Sullivan discloses "...shipping containers suitable for transporting fragile flat items..." (Col 1, Lines 6 and 7). However, Sullivan does not contemplate radiators due to the above-noted disadvantages of Sullivan.

Neither Sullivan, nor Official Notice, teach or suggest the use of a stand-off element, mounted between a non-fragile surface of a radiator and an adjacent container sidewall to maintain the radiator in a spaced configuration from the inner surface of the container. Sullivan, as noted above, teaches away from the use of a stand-off or block member(s). Sullivan does not teach a non-fragile surface on his *flat, fragile articles*.

Sullivan, as noted above, does not teach or suggest forming on a base member a pair of arms for holding a radiator and a pair of legs, which fold away from the arms for supporting the base member and operating to stabilize the radiator with respect to a container.

For at least these reasons, we respectfully request allowance of independent Claim 23 and Claims 25, 26, 29 and 30, which depend therefrom.

In view of the amendments to the claims and remarks herein, Applicant respectfully requests reconsideration and issuance of a Notice of Allowance.

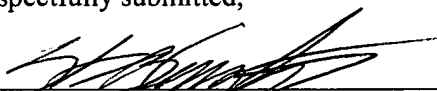
Attached hereto is a marked-up version of the changes made to the claims by the present amendment. The attached page is captioned **"Version with markings to show changes made"**

If, for any reason, the Examiner is unable to allow all of the pending claims of the Application and feels that a telephone conference would be helpful to resolve any remaining issues, the Examiner is respectfully requested to contact the undersigned at (312) 673-0360.

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Version with markings to show changes made

Cancel claims 1, 8, 9, 12, 18, 19, 24, 27, 28 and 31.

Please amend the claims as follows:

2. (Amended) A packaging system for a vehicular radiator, wherein the radiator is generally rectangular in outline with a generally rectangular cross-section, wherein the radiator includes a non-fragile portion, comprising:

a generally rectangular planar tray member, said tray member having a central area defining a plane upon which [a] the radiator is received, and having two opposed sides, a portion of each opposed side being foldable out of the plane of said tray member and forming arms to said tray member which are foldable toward each other to embrace [a] the radiator placed upon said tray member;

at least one strap engageable around said tray member and holding said arms folded upon the radiator placed upon said tray member;

said tray member further including opposed ends, with a portion of each opposed end being foldable out of the plane of said tray member and forming legs to said tray member when so folded said legs folded away from the radiator to thereby form said tray member into a platform upon which the radiator is supported;

a container within which said tray member is received, said container being shaped and sized to snugly fit around said tray member with said opposed sides and ends so folded, and having an interior space with a depth defined by a distance between [a] the radiator [surface] and a container inside surface [side overlying said surface]; and

at least one stand-off element [mountable on one of said radiator and said tray member] mounted to the non-fragile portion of the radiator, said stand-off element having a height generally spanning said interior space depth when so mounted[.], whereby, when said tray member holding said vehicle radiator is received by said container, the combination of said legs, said at least one stand-off element and said tray member serves to stabilize the radiator relative to said container inside surface and to maintain the radiator in a spaced-apart configuration from said container.

12. (Amended) A packaging component[,] for an article comprising:

a base member having a central part defining a plane and a first pair of opposed sides, with a portion of each opposed side of said first pair of sides being foldable out of the plane of said base member and forming arms to said base, said arms being connected to said central part;

a second pair of opposed sides on said base member, said second pair of opposed sides being orthogonal to said first pair of opposed sides, with a portion of each opposed side of said second pair being foldable out of the plane of said base member, said second pair being foldable in a direction opposite of said first pair, and forming legs to said base member when so folded;
and

a member engageable with said arms when said arms are folded toward each other and said central part to hold said arms in a folded condition[;], whereby an article to be packaged when placed upon said central part with said arms in said folded condition, [and] said member engaged with said arms and said legs folded in said opposite direction as said arms is stabilized relative to said base member.

13. (Amended) The packaging component of Claim [12]11 wherein said base member is made of a rectangular rigid planar sheet and is cut to form said arms, and said legs are defined at least in part by fold lines on said planar sheet.

22. (Amended) The packaging component of Claim [21]11 wherein said member engageable with said arms is at least one strap encircling said base member and said arms, with said arms embracing an article on said base member.

23. (Amended) A packaging system, comprising:

a vehicular radiator including a non-fragile portion;

a base member initially in the form of a generally rectangular sheet having a central part defining a plane and a first pair of opposed sides, with a portion of each opposed side of said first pair of sides being foldable out of the plane of said base member and forming arms to said base member, said arms being connected to said central part[,];

a second pair of opposed [ends] sides on said base member, said second pair of opposed [ends] sides being orthogonal to said first pair of opposed sides, with a portion of each opposed [end] side of said second pair being foldable out of the plane of said base member and in a direction opposite the direction as said arms, and forming legs to said base member when so folded;

said sheet being die-cut to form said arms, and said legs are defined by fold lines on said sheet, said central part having a center line and parallel lateral sides and parallel ends, and said legs are defined by a first fold line inboard from and parallel to an adjacent lateral side, and a second fold line inboard from and parallel to an adjacent end, each said arm is defined by a pair of spaced cuts extending inboard from a respective lateral side with a plurality of fold lines extending between said spaced cuts;

a member engageable with said arms when said arms are folded toward each other and over said central part to hold said arms in a folded condition; [and]

a container within which said base member is received, said container being sized to fit around said base member with said opposed arms and legs so folded; and

one or more stand-off element mountable on said non-fragile portion and positionable against an adjacent inner-wall of said container, said stand-off element spanning a space defined by a distance between said non-fragile portion and said container inner-wall,

whereby [an article to be packaged] said radiator, when placed upon said central part with said arms in said folded condition and said member engaged with said arms and said stand-off element mounted upon said non-fragile portion, is stabilized relative to said base member and is firmly locatable against movement within said container[.] and is maintained in a spaced-apart configuration from said container inner-wall.

30. (Amended) The packaging system of Claim [29] 23 wherein said member engageable with said arms is at least one strap encircling said central part and said arms with said arms embracing [an article] said radiator on said central part.